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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,557	01/30/2004	W. Richard Chesnut	CSN	7084

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EXAMINER

TSOY, ELENA

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/768,557

Applicant(s)

CHESNUT ET AL.

Examiner

Elena Tsoy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
4a) Of the above claim(s) 1-36 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 37-55 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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Request for Reconsideration

Request for Reconsideration filed on August 29, 2006 has been entered. Claims 1-55 remain pending in the application. Claims 1-36 are withdrawn from consideration as directed to a non-elected invention.

Specification

Objection to the disclosure because of the informalities has been withdrawn due to amendment.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 41, 43-45, 47-49 stand rejected under 35 U.S.C. 102(b) as being anticipated by Bressler et al (US 5,694,852) for the reasons of record set forth in paragraph 3 of the Office Action mailed on 1/09/2006.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 37-40, 42 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bressler et al in view of Guenther et al (US 3,246,054) for the reasons of record set forth in paragraph 5 of the Office Action mailed on 1/09/2006.

5. Claims 46-55 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bressler et al for the reasons of record set forth in paragraph 6 of the Office Action mailed on 1/09/2006.

6. Claim 52 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Bressler et al in view of Narita et al (US 4,737,378) for the reasons of record set forth in paragraph 7 of the Office Action mailed on 1/09/2006.

Response to Arguments

7. Applicants' arguments filed July 12, 2006 have been fully considered but they are not persuasive.

(A) Applicants argue that claims are allowable because the Bressler is irrelevant, as shown in the enclosed copy of applicant's preliminary amendment. It will be noted that some claims were found to contain allowable subject matter in previous examination. Accordingly, the present Examiner is rendering a decision that seems inconsistent with that prior examination. Examiner is respectfully requested to review the arguments contained in the accompanying papers, which demonstrate Bressler's irrelevance. Another newly cited reference is US patent 3,246,054 which was applied only against claims 37-40 and 42. U.S. Patent 4,737,378 was cited only against claim 52. Therefore, the Examiner has not cited any new art against claims 41, 43-51, and 53-55. Moreover, these two new references are cited in combination with Bressler, which is irrelevant for the reasons given above. Additional arguments can be presented against US

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patents 3,246,054 and 4,737,378, but seem unnecessary for the reasons given. It is believed that the foregoing responds to the objections and rejections

The Examiner respectfully disagrees with this argument. First of all, those claims that were found to contain allowable subject matter in parent application were directed to a machine not to method claims of current application. Secondly, Bressler is not irrelevant because Bressler was applied against all method claims of current application.

As to arguments that limitations of claim 37 are not shown by Bressler, it is held that nonobviousness cannot be shown by attacking references *individually* where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). This is because, with respect to such a rejection, the test for obviousness is what the combined teachings of the references would have suggested to those of ordinary skill in the art. *Id.*, 642 F.2d at 425, 208 USPQ at 881. For these reasons, the combined teachings of Bressler and Guenther et al would have suggested claimed invention.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is 571-272-1429. The examiner can normally be reached on Monday-Thursday, 9:00AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elena Tsoy
Primary Examiner
Art Unit 1762

ELENA TSOY
PRIMARY EXAMINER



September 20, 2006